

AMENDED IN ASSEMBLY APRIL 4, 2000
AMENDED IN ASSEMBLY MARCH 2, 2000
AMENDED IN ASSEMBLY JULY 2, 1999
AMENDED IN SENATE APRIL 5, 1999

SENATE BILL

No. 451

Introduced by Senator Schiff

February 17, 1999

An act to amend Sections 6601.3, 6601.5, and 6602 of the Welfare and Institutions Code, relating to sexually violent predators.

LEGISLATIVE COUNSEL'S DIGEST

SB 451, as amended, Schiff. Sexually violent predators: commitment petitions.

Existing law establishes procedures under which a person under the jurisdiction of the Department of Corrections may be referred for evaluation at least 6 months prior to the person's scheduled date for release from prison if the director determines that the person may be a sexually violent predator, as defined. Existing law provides, under certain circumstances, that this person may be required to stand trial, be found beyond a reasonable doubt to be a sexually violent predator, and be committed for 2 years to the custody of the State Department of Mental Health for treatment and confinement in a secure facility until his or her diagnosed mental disorder has so changed that he or she is not likely to commit an act of sexual violence.

Existing law authorizes the Board of Prison Terms to order that a person referred to the State Department of Mental Health remain in custody for a full evaluation for no more than 45 days, unless his or her scheduled date of release falls more than 45 days after referral. Existing law also provides that in cases where an inmate's parole or temporary parole hold will expire before a probable cause hearing is conducted, the agency bringing the petition may request an urgency review by a judge of a superior court in accordance with specified procedures.

This bill instead would authorize the board, *upon a showing of good cause*, to order that a person referred to the State Department of Mental Health remain in custody for a full evaluation for no more than 45 days beyond the person's scheduled release date, and would revise procedures relating to probable cause review and hearing, including that the person remain in custody pending the completion of the hearing.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 6601.3 of the Welfare and
2 Institutions Code is amended to read:

3 6601.3. ~~The~~ *Upon a showing of good cause, the* Board
4 of Prison Terms may order that a person referred to the
5 State Department of Mental Health pursuant to
6 subdivision (b) of Section 6601 remain in custody for no
7 more than 45 days beyond the person's scheduled release
8 date for full evaluation pursuant to subdivisions (c) to (i),
9 inclusive, of Section 6601.

10 SEC. 2. Section 6601.5 of the Welfare and Institutions
11 Code is amended to read:

12 6601.5. Upon filing of the petition and a request for
13 review under this section, a judge of the superior court
14 shall review the petition and determine whether the
15 petition states or contains sufficient facts that, if true,
16 would constitute probable cause to believe that the
17 individual named in the petition is likely to engage in

1 sexually violent predatory criminal behavior upon his or
2 her release. If the judge determines that the petition, on
3 its face, supports a finding of probable cause, the judge
4 shall order that the person be detained in a secure facility
5 until a hearing can be completed pursuant to Section
6 6602. The probable cause hearing provided for in Section
7 6602 shall commence within 10 calendar days of the date
8 of the order issued by the judge pursuant to this section.

9 SEC. 3. Section 6602 of the Welfare and Institutions
10 Code is amended to read:

11 6602. (a) A judge of the superior court shall review
12 the petition and shall determine whether there is
13 probable cause to believe that the individual named in
14 the petition is likely to engage in sexually violent
15 predatory criminal behavior upon his or her release. The
16 person named in the petition shall be entitled to
17 assistance of counsel at the probable cause hearing. Upon
18 the commencement of the probable cause hearing, the
19 person shall remain in custody pending the completion of
20 the probable cause hearing. If the judge determines there
21 is not probable cause, he or she shall dismiss the petition
22 and any person subject to parole shall report to parole. If
23 the judge determines that there is probable cause, the
24 judge shall order that the person remain in custody in a
25 secure facility until a trial is completed and shall order
26 that a trial be conducted to determine whether the
27 person is, by reason of a diagnosed mental disorder, a
28 danger to the health and safety of others in that the
29 person is likely to engage in acts of sexual violence upon
30 his or her release from the jurisdiction of the Department
31 of Corrections or other secure facility.

32 (b) The probable cause hearing shall not be continued
33 except upon a showing of good cause by the party
34 requesting the continuance.

35 (c) The court shall notify the State Department of
36 Mental Health of the outcome of the probable cause
37 hearing by forwarding to the department a copy of the
38 minute order of the court within 15 days of the decision.

